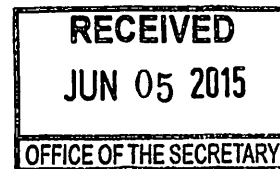


HARD COPY

**UNITED STATES OF AMERICA
Before the
Securities and Exchange Commission**



**ADMINISTRATIVE PROCEEDING
File No. 3-16427**

In the Matter of

Robert J. Lunn

Respondent

RESPONDENT'S ANSWER TO MOTION FOR SUMMARY JUDGMENT

For his Answer to the Division of Enforcement's Motion For Summary Judgment, Respondent states as follows:

I. Respondent takes no position in response to the allegations that there have been violations of the Investment Advisers Act or the Securities Exchange Act.

II. The Division of Enforcement has not established that barring Respondent Lunn from association with any broker, dealer, investment advisor, municipal securities dealer, municipal advisor, transfer agent, or NRSRO, and from offering any penny stock serves the public interest, is warranted under the law, or is supported by the evidence.

Applying the six factors set forth in *Steadman v. Securities and Exchange Commission*, 603 F.2d 1126 (55th Cir. 1979), the first factor is the

egregiousness of the respondent's actions. Here, the criminal case concerned three matters. One was arranging an unsecured loan in the amount of \$1,400,000 for Advisory Client A. The loan was renewed on multiple occasions. It is important to recognize that the client acknowledged in his testimony at the trial that he signed the initial promissory note. A copy of the promissory note that was introduced into evidence is attached as Exhibit A. A transcript of the trial has not yet been prepared. In addition, Client A did not state that he ever wanted to pay the note off. In fact, the bank sued client A to secure repayment of the note. Respondent acknowledged signing client A's signature to the renewals of the note. If Respondent had not signed the renewals of the note, then the total principal would have been immediately due and owing. Respondent had a contract authorizing him to make investments for the client, but he did not obtain a power of attorney. The bank officer stated in his testimony that they believed that the purpose of the loan was for an airplane (there was no contract for the loan and the promissory note does not state what the loan was for). Yet the officer also acknowledged in his testimony that no lien was put on, or attempted to be put on any airplane, and the bank never verified that a plane had actually been purchased. The funds were actually used for a legitimate investment for the client in which Respondent also had an interest.

The second matter was a \$500,000 loan taken out from Leader's Bank by Client B. Respondent testified that the client telephonically authorized

Respondent to sign the loan application and Client B testified that he did not authorize it. Both Respondent and Client B testified that the loan was fully repaid to the bank by Respondent within a few months.

The third matter was a line of credit from the bank which was supported by two pre-existing financial statements which had been prepared for other banks and which were sent to Leader's Bank by someone at Respondent Lunn's company. There was no evidence establishing who actually sent the financial statements to the bank. The funds were invested in a real estate development and were largely repaid through the bankruptcy proceedings of Respondent Lunn.

Respondent is not collaterally challenging the criminal conviction. But it remains true that there is a fine line between commercial disputes and criminal fraud. All three matters were part of legitimate commercial activities, although Respondent Lunn did not follow all of the requirements for signing documents such as loan applications on behalf of other persons.

The Division of Enforcement's motion states that there was "a high degree of scienter involved," the second *Steadman* factor, but that phrase is nowhere defined so it is difficult to respond to.

The third and fourth *Steadman* factors are assurances against future violations and recognition of the wrongful nature of the conduct. Respondent Lunn has his own perspectives on what happened. But in no event does he intend to establish a broker or dealer operation of any sort, or to engage in

future violation of any laws, much less the securities laws. Moreover, Mr. Lunn is now 64 years old and is not in good health. The significance of the third and fourth factors blend into the last factor, the likelihood that defendant's occupation will present opportunities for future violations. Respondent Lunn's problems stemmed, at least in part, from a failure to observe procedural requirements, such as the proper procedures for signing documents on behalf of other persons. Consequently, a case can be made for Respondent Lunn to be precluded from being the owner of a broker-dealer. A person in such a position is responsible for all aspects of the operation of the brokerage. But this case involves a relatively small number of offending incidents that were a very small part of a very large investment operation. Lunn's investment companies had a total of up to \$3 billion under management.

In short, barring Respondent Lunn from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized rating organization, and from participating in any offering of a penny stock is a greater sanction than the facts of the case warrant.


Finally, in the Division of Enforcement's Supplemental Brief, it is not convincingly argued that this case is distinguishable from *In The Matter of Gary L. McDuff*, 2015 WL 1873119 (2015). The Division argues that it can rely on the jury instructions and the district court's denial of the post trial motion to establish the basis for a collateral bar. But this is wrong. The jury rendered a

general verdict. Absent special verdicts, there is no record of and no basis for inferring how or why a particular jury reached the decision that it did. The jury instructions are no more than statements of law approved by the Court of appeals. There is no way of knowing if the jury, in fact, followed them.

As for the denial of the post trial motion, the district judges explicitly states on page 2 of that order that it is not the court's role to weigh the evidence or make credibility determinations. That order does no more than find that the defendant's motion for a new trial did not present sufficient facts or law to warrant a new trial. It does not constitute a judicial finding as to what the defendant in the case did or did not do.

WHEREFORE, Respondent requests that the Administrative Law Judge not impose the full bar sought by the Division of Enforcement.

Respectfully submitted,



John M. Beal
Attorney for Respondent

John M. Beal
Attorney at Law
53 West Jackson Blvd., Suite 1615
Chicago IL 60604
(312) 408-2766

EXHIBIT ONE

ILLINOIS NOTE

Borrower: Scotfile
c/o Lunn Partners LLC, One Franklin Street, Ste.
750
Chicago, IL 60606

Lender: THE LEADERS BANK
2001 YORK ROAD, SUITE 150
OAK BROOK, IL 60523

1000333

Principal Amount: \$1,400,000.00

Interest Rate: 6.000%

Date of Note: September 20, 2002

PROMISE TO PAY. I ("Borrower") promise to pay to THE LEADERS BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of One Million Four Hundred Thousand & 00/100 Dollars (\$1,400,000.00), together with interest at the rate of 6.000% per annum on the unpaid principal balance from September 20, 2002, until paid in full.

PAYMENT. I will pay this loan in one principal payment of \$1,400,000.00 plus interest on November 4, 2002. This payment due on November 4, 2002, will be for all principal and all accrued interest not yet paid. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. Interest on this Note is computed on a 365/365 simple interest basis; that is, by applying the ratio of the annual interest rate over the number of days in a year, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

PREPAYMENT. I may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve me of my obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due. I agree not to send Lender payments marked "paid in full", "without recourse", or similar language. If I send such a payment, Lender may accept it without losing any of Lender's rights under this Note, and I will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: The Leaders Bank, Post Office Box 3516 Oak Brook, IL 60522-3516.

LATE CHARGE. If a payment is 10 days or more late, I will be charged 5.000% of the regularly scheduled payment or \$25.00, whichever is greater.

INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the interest rate on this Note to 18.000% per annum. The interest rate will not exceed the maximum rate permitted by applicable law.

DEFAULT. I will be in default under this Note if any of the following happen:

Payment Default. I fail to make any payment when due under this Note.

Break Other Promises. I break any promise made to Lender or fail to perform promptly at the time and strictly in the manner provided in this Note or in any agreement related to this Note, or in any other agreement or loan I have with Lender.

Default in Favor of Third Parties. I or any Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of my property or my ability to repay this Note or perform my obligations under this Note or any of the related documents.

False Statements. Any representation or statement made or furnished to Lender by me or on my behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished.

Death or Insolvency. Any Borrower dies or becomes insolvent; a receiver is appointed for any part of my property; I make an assignment for the benefit of creditors; or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws.

Taking of the Property. Any creditor or governmental agency tries to take any of the property or any other of my property in which Lender has a lien. This includes taking of, garnishing of or levying on my accounts, including deposit accounts, with Lender. However, if I dispute in good faith whether the claim on which the taking of the property is based is valid or reasonable, and if I give Lender written notice of the claim and furnish Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

Insecurity. Lender in good faith believes itself insecure.

LENDER'S RIGHTS. Upon default, Lender may declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then I will pay that amount.

ATTORNEYS' FEES; EXPENSES. Lender may hire or pay someone else to help collect this Note if I do not pay. I will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law.

JURY WAIVER. Lender and I hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or me against the other.

GOVERNING LAW. This Note will be governed by and interpreted in accordance with federal law and the laws of the State of Illinois. This Note has been accepted by Lender in the State of Illinois.

CHOICE OF VENUE. If there is a lawsuit, I agree upon Lender's request to submit to the jurisdiction of the courts of DU PAGE County, State of Illinois.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all my accounts with Lender (whether checking, savings, or some other account). This includes all accounts I hold jointly with someone else and all accounts I may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. I authorize Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the debt against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

COLLATERAL. This loan is unsecured.

SUCCESSOR INTERESTS. The terms of this Note shall be binding upon me, and upon my heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES. Please notify us if we report any inaccurate information about your account(s) to a consumer reporting agency. Your written notice describing the specific inaccuracy(ies) should be sent to us at

**PROMISSORY NOTE
(Continued)**

Page 2

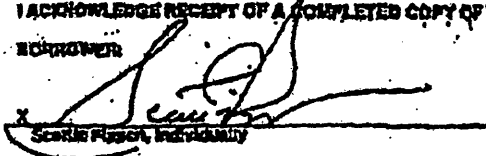
The following address: The Leaders Bank P.O. Box 3518 Oak Brook, IL 60521-1518.

GENERAL PROVISIONS. Lender may delay or forego asserting any of its rights or remedies under this Note without losing them. I and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive prepayment, demand for payment, and notice of default. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may remove or extend (including and for any length of time) this loan or release any party or guarantor or co-obligor or trustee, and to make loans or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. This means that the words "I", "me", and "my" mean each and all of the persons signing below.

PRIOR TO SIGNING THIS NOTE, I READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. I AGREE TO THE TERMS OF THE NOTE.

I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

BORROWER


Scottie Pappas, Individually



0002

08/23/84 11:25 PM 872 4879

TOTAL P.04

LEADR_024-000125

DISCLOSURE STATEMENT

Borrower: Sebnik [REDACTED]
c/o Lumin Partners LLC, One Franklin Street, 5th,
760
Chicago, IL 60602

Lender: THE LEADERS BANK
2001 YORK ROAD, SUITE 150
OAK BROOK, IL 60133

ANNUAL PERCENTAGE RATE The cost of my credit as a	FINANCE CHARGE The dollar amount the credit will cost me.	Amount Financed The amount of credit provided to me of on my behalf.	Total of Payments The amount I will have paid after I have made all payments
6.000%	\$10,356.18	\$1,400,000.00	\$1,410,356.18

PAYMENT SCHEDULE. My payment schedule will be one payment of \$1,410,356.18 on November 4, 2002.

SECURITY. This loan is unsecured, except for Lender's contractual rights, including the right of setoff, in my accounts, including deposit accounts.

PREPAYMENT. If I pay off early, I will not have to pay a penalty.

I will look at my contract documents for any additional information about nonpayment, default, any required repayments in full before the scheduled date, and prepayment refunds.

I read and was given a complete copy of this Disclosure Statement on September 20, 2002, and I am signing the Note.

BORROWER:

[Signature]
Sebnik [REDACTED], Individually

Amount Financed Itemization

Other Disbursements:	\$1,389,000.00
\$1,389,000.00 Wire Transferred via instructions to be received	
Other Charges Financed:	\$1,000.00
\$1,000.00 Loan Documentation Fee	
Note Principal:	\$1,400,000.00
Prepaid Finance Charges:	\$0.00
In Cash:	\$0.00
Amount Financed:	\$1,400,000.00

2002 The Lender, Inc. All Rights Reserved. This document is not to be reproduced without the Lender's written permission.

TOTAL P.04

LEADR_024-000126

Borrower: Scottie [REDACTED]
c/o Lunn Partners LLC, One Franklin Street, Ste,
750
Chicago, IL 60606

Lender: THE LEADERS BANK
2001 YORK ROAD, SUITE 150
OAK BROOK, IL 60523

**ANNUAL
PERCENTAGE RATE**
The cost of my credit as a
yearly rate.

6.000%

FINANCE CHARGE
The dollar amount the credit
will cost me.

\$10,356.16

-Amount Financed
The amount of credit provided
to me or on my behalf.

\$1,400,000.00

Total of Payments
The amount I will have paid
after I have made all payments
as scheduled.

\$1,410,356.16

PAYMENT SCHEDULE. My payment schedule will be one payment of \$1,410,356.16 on November 4, 2002.

SECURITY. This loan is unsecured, except for Lender's contractual rights, including the right of setoff, in my accounts, including deposit accounts.

PREPAYMENT. If I pay off early, I will not have to pay a penalty.

I will look at my contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds.

I read and was given a completed copy of this Disclosure Statement on September 20, 2002, prior to signing the Note.

BORROWER:

X
Scottie Pippen, Individually

Amount Financed Itemization

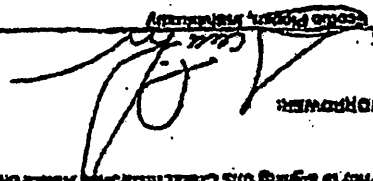

Other Disbursements:	\$1,399,000.00
\$1,399,000.00 Wire Transferred via instructions to be received	
Other Charges Financed:	\$1,000.00
\$1,000.00 Loan Documentation Fee	
Note Principal:	\$1,400,000.00
Prepaid Finance Charges:	\$0.00
In Cash:	\$0.00
Amount Financed:	\$1,400,000.00

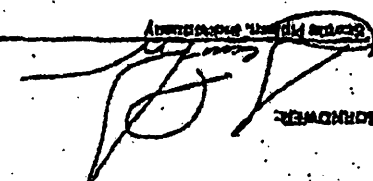
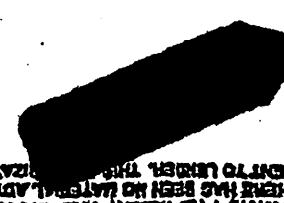
LEADR PRO Lending, Inc. 5300 LINDEN Dr., Highland Heights, OH 44131, 2002. All Rights Reserved. - E. 100710251/FC TR-001 PB-4



LEADR_024-000127

6164-123 FAX 921-11 20/02/00

400

By signing below, I acknowledge that I am not obtaining credit insurance for the loan for one of the following reasons:
(A) I am not eligible and credit insurance is available from Lender or
(B) Credit insurance is not available from Lender or
(C) I am eligible and credit insurance is available from Lender, I do not want it.
Prior to signing this Credit Insurance Notice on September 29, 2002, I read and understood the provisions of this Disclosure.
Borrower: 
Lender: 

CREDIT INSURANCE DISCLOSURE
VOLUNTARY CREDIT INSURANCE, CREDIT LIFE INSURANCE, CREDIT DISABILITY INSURANCE AND INVOLUNTARY UNEMPLOYMENT INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT.
Borrower: 
Lender: 
As disclosed by my most recent financial statement to Lender, this information is dated September 29, 2002.
FINANCIAL CONDITION, BY SIGNING THIS AUTHORIZATION, I HEREBY AGREE AND WARRANT TO LENDER THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT AND THAT THERE HAS BEEN NO MATERIAL CHANGE IN MY FINANCIAL CONDITION AS DISCLOSED BY MY MOST RECENT FINANCIAL STATEMENT TO LENDER. THIS INFORMATION IS DATED SEPTEMBER 29, 2002.
Loan Type: This is a Fixed Rate (Interest) Adjustable Loan to an individual for \$1,400,000.00 due on November 4, 2002.
Primary Purpose of Loan: The primary purpose of this loan is for:
☐ Business
☒ Personal, Family, or Household Purpose or Personal Investment.
Specific Purpose: The specific purpose of this loan is for short term working capital.
Disbursement Instructions: I understand that no loan proceeds will be disbursed until all of Lender's conditions for making the loan have been satisfied. Please advise the loan proceeds of \$1,400,000.00 as follows:
Cash Disbursement: \$1,350,000.00
Other Charges Finance: \$1,000.00
Other Loan Fees: \$1,000.00
Loan Origination Fee: \$1,400,000.00

DISBURSEMENT REQUEST AND AUTHORIZATION
Borrower: 
Lender: 
THE LEADER BANK
2001 YORK ROAD, SUITE 150
OAK BROOK, IL 60057
Chicago, IL 60606
312 629 2622 P.B./W P-1

**Lender: THE LEADERS BANK
2001 YORK ROAD, SUITE 150
OAK BROOK, IL 60523**

LASTED FOR London, Nov. 6-10, 1949. Gov. Medical Research Station, Inc. 1947. 2012. 48 Pages. Printed. • U. S. NATIONAL BUREAU OF STANDARDS 77-1011 177

Amount: \$1,400,000
Fee: -0- Analyzed: N

Telephone Wire Transfer: Y or N Caller's name: _____

Customer Information:

Account Number: Loan Wire _____
Name: _____
Address: _____
City & State: _____
Phone Number: _____

Originating Bank: The Leaders Bank ABA: 071926061
2001 York Road Ste 150
Oak Brook IL 60523 ID Code: _____

Receiving Bank Information:

Name: Wachovia Bank of Georgia
ABA#: 061000010

Further Crediting Bank Information (If any):


Account Number: _____
Bank Name: _____
Bank Address: _____
Bank Address: _____
Notify: _____ Phone: _____

Crediting Account Information:

Account Number: _____
Name: Robert E Shaw
Address: _____
Address: _____
Notify: _____ Phone: _____

Additional Information: _____

Customer Signature: _____

Available Balance: _____ Input by: _____
Control Number: _____ Verified by: _____
Received by: _____ Transmitted by: _____
Officer Approval:  Time: _____ Seq Number: _____
Ticket/Debit by: _____ Confirmation Number: _____

COPY

EXHIBIT TWO

AFFIDAVIT OF JOHN M. BEAL

John M. Beal states as follows:

1. I am counsel for Respondent Robert J. Lunn.
2. The facts set forth in Respondent's Answer to Motion for Summary Judgment are true and correct to the best of counsel's knowledge.
3. Exhibit One to Respondent's Answer to Motion for Summary Judgment is a true and correct copy of an exhibit introduced by the government in the jury trial of *United States v. Robert J. Lunn*, 12 CR 402, N.D. Ill.

Further affiant sayeth not.


John M. Beal

CERTIFICATION

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 4, 2015.


John M. Beal